

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHAJUAN GRAY,)	CASE NO.: 1:18-CV-02418
)	
Plaintiff,)	JUDGE: CHRISTOPHER A. BOYKO
)	
vs.)	<u>ANSWER OF DEFENDANTS</u>
)	
CITY OF EUCLID, et al.,)	
)	
Defendants.)	<i>(Jury Demand Endorsed Hereon)</i>

Now come Defendants, City of Euclid and Officer James Aoki, by and through counsel Mazanec, Raskin & Ryder Co., L.P.A., and for their answer to Plaintiff's Complaint state as follows:

FIRST DEFENSE

1. In reply to the allegations contained in Paragraph 1 of Plaintiff's Complaint, Defendants admit that on March 27, 2017, Plaintiff was at home in her apartment when Defendant Officer James Aoki responded to a neighbor complaint of loud noise coming from Plaintiff's apartment. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 1.

2. In reply to the allegations contained in Paragraphs 2 and 3 of Plaintiff's Complaint, Defendants admit the nature of this action but deny all liability and further deny or deny for want of information all other allegations contained in said Paragraphs 2 and 3.

3. In reply to the allegations contained in Paragraphs 4 and 5 of Plaintiff's Complaint, Defendants admit the nature of the claims asserted, the jurisdiction of this Court, and that venue is proper in this District. Further pleading, these Defendants deny all liability and further deny or deny for want of information all other allegations contained in said Paragraphs 4 and 5.

4. Defendants deny or deny for want of information all allegations contained in Paragraph 6 of Plaintiff's Complaint.

5. In reply to the allegations contained in Paragraph 7 of Plaintiff's Complaint, Defendants admit that Officer Aoki was at all pertinent times a duly appointed police officer employed by the City of Euclid, that he was acting in the course and scope of his employment, and that he is sued in his individual capacity. Further pleading, Defendants deny all liability and further deny or deny for want of information all other allegations contained in said Paragraph 7.

6. In reply to the allegations contained in Paragraph 8 of Plaintiff's Complaint, Defendants admit that Euclid is a political subdivision and unit of local government duly organized under the laws of the State of Ohio, is considered a "person" under 42 U.S.C. 1983, and is the employer of Officer Aoki. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 8.

7. Defendants deny or deny for want of information all allegations contained in Paragraph 9 of Plaintiff's Complaint.

8. Defendants admit the allegations contained in Paragraphs 10, 11, and 12 of Plaintiff's Complaint.

9. In reply to the allegations contained in Paragraph 13 of Plaintiff's Complaint, Defendants admit that Plaintiff opened the door of her apartment. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 13.

10. In reply to the allegations contained in Paragraph 14 of Plaintiff's Complaint, Defendants admit that Officer Aoki asked Plaintiff to turn her music down. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 14.

11. In reply to the allegations contained in Paragraph 15 of Plaintiff's Complaint, Defendants admit that Plaintiff turned off her music. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 15.

12. Defendants deny or deny for want of information all allegations contained in Paragraphs 16, 17, and 18 of Plaintiff's Complaint.

13. In reply to the allegations contained in Paragraph 19 of Plaintiff's Complaint, Defendants admit that a female neighbor entered Plaintiff's apartment while Officer Aoki was attempting to gain Plaintiff's compliance. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 19.

14. In reply to the allegations contained in Paragraph 20 of Plaintiff's Complaint, Defendants admit that while Officer Aoki was in Plaintiff's apartment attempting to gain Plaintiff's compliance, her breast was briefly exposed. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 20.

15. Defendants deny or deny for want of information all allegations contained in Paragraph 21 of Plaintiff's Complaint.

16. In reply to the allegations contained in Paragraph 22 of Plaintiff's Complaint, Defendants admit that Officer Aoki asked the female neighbor inside Plaintiff's apartment to assist by pulling Plaintiff's gown up. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 22.

17. In reply to the allegations contained in Paragraph 23 of Plaintiff's Complaint, Defendants admit that Plaintiff was arrested and placed in the back of Officer Aoki's police cruiser. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 23.

18. Defendants deny the allegations contained in Paragraphs 24 and 25 of Plaintiff's Complaint.

19. Defendants admit the allegations contained in Paragraph 26 of Plaintiff's Complaint.

20. In reply to the allegations contained in Paragraph 27 of Plaintiff's Complaint, Defendants admit that Plaintiff was held at the Cuyahoga County Jail located in Euclid, Ohio, until she posted bond. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 27.

21. Defendants deny the allegations contained in Paragraph 28 of Plaintiff's Complaint.

22. In reply to the allegations contained in Paragraph 29 of Plaintiff's Complaint, Defendants admit that Officer Aoki issued citations to Plaintiff for resisting arrest, obstructing official business, and unnecessary noise. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 29.

23. In reply to the allegations contained in Paragraph 30 of Plaintiff's Complaint, Defendants admit that criminal charges against Plaintiff went to a jury trial. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 30.

24. Defendants deny the allegations contained in Paragraph 31 of Plaintiff's Complaint.

25. Defendants admit the allegations contained in Paragraph 32 of Plaintiff's Complaint.

26. Defendants deny or deny for want of information all allegations contained in Paragraphs 33, 34, and 35 of Plaintiff's Complaint.

27. In reply to the allegations contained in Paragraph 36 of Plaintiff's Complaint, Defendants admit that Officer Aoki was not disciplined in relation to his interaction with Plaintiff. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 36.

28. In reply to the allegations contained in Paragraph 37 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

29. Defendants deny or deny for want of information all allegations contained in Paragraphs 38, 39, 40, and 41 of Plaintiff's Complaint.

30. In reply to the allegations contained in Paragraph 42 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

31. Defendants deny or deny for want of information all allegations contained in Paragraphs 43, 44, 45, and 46 of Plaintiff's Complaint.

32. In reply to the allegations contained in Paragraph 47 of Plaintiff's Complaint, Defendants admit that a jury acquitted Plaintiff of criminal charges. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 47.

33. Defendants deny or deny for want of information all allegations contained in Paragraphs 48 and 49 of Plaintiff's Complaint.

34. In reply to the allegations contained in Paragraph 50 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

35. Defendants deny or deny for want of information all allegations contained in Paragraphs 51, 52, 53, 54, 55, 56, and 57 of Plaintiff's Complaint.

36. In reply to the allegations contained in Paragraph 58 of Plaintiff's Complaint, Defendants admit that the photocopy picture under Paragraph 58 is an accurate copy of the front page of Euclid Police Department 2017 Defensive Tactics Training material. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 58.

37. In reply to the allegations contained in Paragraph 59 of Plaintiff's Complaint, Defendants aver that the opinion in *Stewart v. Euclid*, 17-cv-02122 speaks for itself and, in part,

includes dicta that does not represent legal or factual conclusions relevant to the instant matter. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 59.

38. Defendants deny or deny for want of information all allegations contained in Paragraphs 60, 61, 62, 63, 64, 65 and 66 of Plaintiff's Complaint.

39. In reply to the allegations contained in Paragraph 67 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

40. Defendants deny or deny for want of information all allegations contained in Paragraphs 68 and 69 of Plaintiff's Complaint.

41. In reply to the allegations contained in Paragraph 70 of Plaintiff's Complaint, Defendants admit that a jury acquitted Plaintiff of criminal charges. Further pleading, Defendants deny or deny for want of information all other allegations contained in said Paragraph 70.

42. Defendants deny or deny for want of information all allegations contained in Paragraph 71 of Plaintiff's Complaint.

43. In reply to the allegations contained in Paragraph 72 of Plaintiff's Complaint, Defendants admit that Officer Aoki was at all pertinent times acting within the scope of his employment as a duly appointed police officer employed by the City of Euclid. Further pleading, Defendants deny all liability and further deny or deny for want of information all other allegations contained in said Paragraph 72.

44. Defendants deny or deny for want of information all allegations contained in Paragraph 73 of Plaintiff's Complaint.

45. In reply to the allegations contained in Paragraph 74 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

46. Defendants deny or deny for want of information all allegations contained in Paragraphs 75, 76 and 77 of Plaintiff's Complaint.

47. In reply to the allegations contained in Paragraph 78 of Plaintiff's Complaint, Defendants restate their admissions and denials as set forth hereinabove.

48. Defendants deny or deny for want of information all allegations contained in Paragraphs 79, 80, 81, 82 and 83 of Plaintiff's Complaint.

49. Defendants deny any and all allegations contained in Plaintiff's Complaint which are not specifically admitted hereinabove.

SECOND DEFENSE

50. Plaintiff's Complaint fails to state a claim upon which relief can be granted in some or all respects.

THIRD DEFENSE

51. Primary assumption of risk.

FOURTH DEFENSE

52. Comparative negligence/implied assumption of risk.

FIFTH DEFENSE

53. Estoppel/Waiver.

SIXTH DEFENSE

54. Res judicata/collateral estoppel.

SEVENTH DEFENSE

55. Probable cause/good faith.

EIGHTH DEFENSE

56. If Plaintiff suffered any injuries or damages, which matters are specifically denied, said injuries or damages were solely and proximately caused by Plaintiff's own acts or omissions or those of persons or entities for whom Defendants have no legal responsibility.

NINTH DEFENSE

57. Qualified good faith immunity.

TENTH DEFENSE

58. Defendants are entitled to all immunities, damage limitations, damage set offs and other benefits conferred upon them by R.C. Chapter 2744 and/or Ohio common law by reason of their status as a political subdivision of the State of Ohio and/or employees of a political subdivision.

ELEVENTH DEFENSE

59. Privilege.

TWELFTH DEFENSE

60. Any and all actions undertaken by these Defendants were motivated by legitimate law enforcement purposes.

WHEREFORE, having fully answered, Defendants pray that Plaintiff's Complaint be dismissed, and that they go hence without cost or delay.

Respectfully submitted,

MAZANEC, RASKIN & RYDER CO., L.P.A.

s/John D. Pinzone

JAMES A. CLIMER (0001532)

JOHN D. PINZONE (0075279)

100 Franklin's Row

34305 Solon Road

Cleveland, OH 44139

(440) 248-7906

(440) 248-8861 – Fax
Email: jclimer@mrrlaw.com
jpinzone@mrrlaw.com

Counsel for Defendants City of Euclid and Officer
James Aoki

JURY DEMAND

A trial by jury composed of the maximum number of jurors permitted under the law is hereby demanded.

s/John D. Pinzone

JOHN D. PINZONE (0075279)

Counsel for Defendants City of Euclid and Officer
James Aoki

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2019, a copy of the foregoing Answer of Defendants was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/John D. Pinzone

JOHN D. PINZONE (0075279)

Counsel for Defendants City of Euclid and Officer
James Aoki